

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY
VIDEOTAPED DEPOSITION OF RITU T. BHAMBHANI, M.D. on 02/10/2016

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1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3

4 IN RE: NEW ENGLAND

5 COMPOUNDING PHARMACY, INC. MDL No. 2419

6 PRODUCTS LIABILITY LITIGATION Master Docket

7 1:13-md-02419-RWZ
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11 VIDEOTAPED DEPOSITION DUCES TECUM
12 OF RITU T. BHAMBHANI, M.D.
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14
15 Wednesday, February 10, 2016
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23 Reported by: Lori J. Goodin, RPR, CLR, CRR,
24 Realtime Systems Administrator
25 Assignment No. 26236

EXHIBIT

5



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1 MPA was wasn't compounded? I think that was my
2 original question.
3 A. If I did, I do not remember.
4 Q. Okay. And prior to 2013, had you
5 used any MPA that was not compounded?
6 And let me narrow that because that
7 takes you all of the way back to your residency.
8 A. Yes, to my residency.
9 Q. And I don't want to do that.
10 Since coming to, being in private
11 practice, had you used any MPA that was not
12 compounded before 2013?
13 A. So you are saying from 2008 on?
14 Q. No. I'm saying from 2000, from 2000
15 to 2013.
16 MS. STEINER: Across the spectrum of
17 different locations?
18 BY MR. ROTH:
19 Q. Correct.
20 A. So, Franklin Square included, the
21 first job included?
22 Q. Yes.
23 A. Had I used non-compounded MPA?
24 Q. Yes.
25 A. I have to think, I am -- what I can

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1 say is I had used non-compounded steroid, but I'm
2 not sure if I had used non-compounded MPA
3 specifically.
4 Q. Okay. And, that is a good
5 distinction.
6 At Box Hill, between 2013 and 2008,
7 had you used non-compounded steroids for epidural
8 injections?
9 A. Again, I can't say for sure if I
10 would have.
11 More broadly speaking, I know at
12 some point from the time I started at Franklin
13 Square I have used a non-compounded
14 triamcinolone. I have used non-compounded and,
15 yeah, non-compounded celestone which is a
16 betamethasone two salt combination.
17 What I can't say for sure is that
18 from 2008 to 2013 if I used a non-compounded MPA.
19 Q. You can't say that.
20 A. I cannot say for sure.
21 Q. Did there come a time in your
22 professional experience where you have made a
23 decision that you were going to use compounded
24 MPA?
25 A. To some extent, maybe just not as

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1 black and white as that. When I was at Harford
2 County Ambulatory Surgical Center, the physician
3 who had brought me on board at Franklin Square
4 also was coming to Harford County Ambulatory
5 Surgery Center, because when I left Franklin
6 Square to become, to come to Harford County
7 Ambulatory Surgery Center, he left Franklin
8 Square at some point soon after I did and started
9 his own practice.
10 And, until he had, I guess, his
11 location set up to be able to do procedures, he
12 was coming to Harford County Ambulatory Surgery
13 Center to do procedures.
14 And he introduced, definitely, me to
15 the possibility of being able to use a
16 preservative-free steroid.
17 And he was using preservative-free
18 MPA at the time. That is the same physician I
19 have worked with for three years at Franklin
20 Square about ten years my senior. And, he knew
21 that I had had a couple of patients I was using
22 the same, for the most part I think, the same
23 steroid I had trained with at Franklin Square.
24 And he knew that I had had a couple
25 of patients with some side effects. And when he

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1 saw me at Harford County Ambulatory Surgery
2 Center he was using preservative-free MPA and
3 suggested, not just me, but there was another
4 pain provider who was doing pain procedures at
5 Harford County Ambulatory Surgery Center that we
6 try that for the reason that, since the active
7 medication that we were looking for therapeutic
8 factors of the steroid and that is the same, that
9 to use it without the additional chemical of the
10 preservative, that that would be a better choice.
11 And I was agreeable to it, and that is when I
12 first started using a preservative-free steroid.
13 Q. And at the time that you first
14 started using this preservative-free steroid at,
15 and this was at Harford County?
16 A. Harford County.
17 Q. Was the only way to get a
18 preservative-free steroid to get it from a
19 compounding pharmacy?
20 A. I was not, I guess, part of the
21 ordering process at Harford County, so I'm not
22 sure.
23 Q. Okay.
24 A. Or at least at the time I wasn't
25 sure that if they had other options or, if that



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1 to assume, would that affect your decision to use
2 compounds?

3 MS. STEINER: Same objection.
4 Unless you are asking it in the present
5 tense, which is --

6 THE WITNESS: I don't know how to
7 answer it any different. I'm not sure.

8 BY MR. ROTH:

9 Q. Do you know what it means when, or
10 would you have an understanding of what it means
11 if the drug is adulterated?

12 A. I'm sorry, a drug is?

13 Q. Adulterated. Sorry.

14 MS. STEINER: Try it again.

15 BY MR. ROTH:

16 Q. Do you know what it means or do you
17 have an understanding, and his handwriting is
18 very good, do you have an understanding of what
19 it means if a drug is adulterated.

20 MS. STEINER: Objection as to form.

21 THE WITNESS: Like, definition of
22 adulterated? I don't know if I can give the
23 dictionary definition. It is not in the form
24 that it is supposed to be in?

25 BY MR. ROTH:

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1 Q. Okay. If you were aware between the
2 time, between 2008 when you had responsibility
3 for purchasing or deciding what drugs to use, up
4 to the recall, that NECC had issues with
5 adulterated compounds, would that affect your
6 decision to purchase compounds from NECC?

7 MS. STEINER: Objection as to form
8 and foundation.

9 THE WITNESS: Again I'm,
10 hypothetically speaking, I'm not, again, I
11 just don't know how to answer because it is
12 so broad.

13 So much would have to depend on, you
14 know, what type of problem and how it was
15 addressed.

16 And, then see, you know, that there
17 were options, I guess, when I started using
18 it. And I used it for a while.

19 So, at any given point in time, if I
20 was made aware of something, I would have to
21 look at it and see.

22 BY MR. ROTH:

23 Q. Okay. Do you have in front of you
24 or handy 1051? It is the answers to?

25 MS. STEINER: She has all of the

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1 exhibits, so --

2 BY MR. ROTH:

3 Q. Okay. Is that the answers to
4 Interrogatories? Right. And if you can turn to
5 Page 3.

6 Then, and the question is, "When,
7 how, and why did Box Hill decide to purchase
8 compounded medications from NECC."

9 Do you see that question?

10 A. The first one, yes.

11 Q. Yes.

12 A. Uh-huh.

13 Q. And, your answer after the objection
14 and recognizing that I think there is general
15 objections in the answers is "Dr. Bhambhani was
16 the sole individual at Box Hill who made
17 decisions about purchasing preservative-free
18 methylprednisolone and acetate MPA from NECC.

19 "Dr. Bhambhani had used
20 preservative-free MPA from NECC when she
21 practiced at a previous medical practice. Even
22 before she started the Box Hill Surgery Center.

23 "She was not involved in the
24 purchasing decisions of the previous medication
25 and had not experienced any previous adverse

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1 effects from NECC's MPA.

2 "NECC was licensed with Maryland
3 Board of Pharmacy and as such she continued to
4 purchase from NECC while at Box Hill."

5 Have I read that answer correctly?

6 MS. STEINER: I'm not sure you have
7 read it exactly correctly, you said previous
8 medication and not previous medical practice
9 and you conjoined the last two sentences. I
10 think they are separate sentences.

11 BY MR. ROTH:

12 Q. Okay. So, the last, the if I can
13 just, "She was not involved in the purchasing
14 decisions at previous medical practice and had
15 not experienced any previous adverse effects from
16 NECC's MPA.

17 "NECC was licensed with Maryland
18 Board of Pharmacy. As such, she continued to
19 purchase MPA from NECC while at Box Hill."

20 Now have I read that correctly?

21 A. Yes.

22 Q. And, does that describe the reason
23 why NECC was selected by you to provide
24 preservative-free MPA?

25 MS. STEINER: Beyond that which she



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<p style="text-align: right;">Page 98</p> <p>1 has already answered in this deposition?</p> <p>2 MR. ROTH: Yes.</p> <p>3 THE WITNESS: I was going to say I</p> <p>4 have gone beyond this and given more</p> <p>5 background in having had problems or side</p> <p>6 effects, seeing side effects from the steroid</p> <p>7 used prior, the reason I started using it</p> <p>8 based on Dr. Dickson's recommendation, having</p> <p>9 used it for years over there without any</p> <p>10 problems. It is correct I was not involved</p> <p>11 with the purchasing decision over there.</p> <p>12 And when I started Box Hill Surgery</p> <p>13 Center I decided I was going to continue</p> <p>14 using the same products I had used prior</p> <p>15 without any issues.</p> <p>16 BY MR. ROTH:</p> <p>17 Q. Well, to be fair, the issues with</p> <p>18 respect to side effects, the conversations you</p> <p>19 had with the doctor who you had worked with,</p> <p>20 those related to a decision to use</p> <p>21 preservative-free MPA.</p> <p>22 At the time you didn't know that</p> <p>23 they were purchasing from NECC; isn't that right?</p> <p>24 A. When Harford County decided to</p> <p>25 purchase it?</p>	<p style="text-align: right;">Page 100</p> <p>1 folks from Harford, right?</p> <p>2 A. And having used NECC's</p> <p>3 preservative-free MPA at Harford for years</p> <p>4 without any problem.</p> <p>5 Q. Right.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And, other than speaking with</p> <p>8 the folks from Harford in 2008, did you have any</p> <p>9 conversation with anybody else about NECC in 2008</p> <p>10 when you made the decision to continue with them?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Okay. One of the things you mention</p> <p>13 in the Answers to Interrogatories is that NECC</p> <p>14 was a, was licensed with the Maryland Department</p> <p>15 of Pharmacy.</p> <p>16 Did you verify that in 2008?</p> <p>17 A. I don't remember specifically one</p> <p>18 way or the other.</p> <p>19 Again, it was being used at the</p> <p>20 other center where I was.</p> <p>21 They had been getting it for a</p> <p>22 period of time. I had been using it there no</p> <p>23 problems.</p> <p>24 So, when I decided to get it, did I</p> <p>25 specifically ask for that license? I don't</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. Right.</p> <p>2 A. I don't, I am not sure if that is</p> <p>3 who they got it from day one over there or not.</p> <p>4 That is who they were getting it from when I left</p> <p>5 and I asked who were they getting it from at the</p> <p>6 time in 2008.</p> <p>7 Q. Right. And so, my, all of that</p> <p>8 background that you have described, related to</p> <p>9 your decision to use preservative-free MPA, not</p> <p>10 the source of that preservative-free MPA.</p> <p>11 I mean earlier on in this</p> <p>12 deposition, you are looking at me like I have two</p> <p>13 heads here.</p> <p>14 A. No, no.</p> <p>15 Q. Early in the deposition I was asking</p> <p>16 you about your decision to use preservative-free</p> <p>17 MPA, and drew a distinction between that decision</p> <p>18 and the source of it, do you recall that?</p> <p>19 A. So, if the question is the decision</p> <p>20 to use it?</p> <p>21 Q. No, I'm sorry.</p> <p>22 A. Or where to get it from?</p> <p>23 Q. That's right. What I'm trying to</p> <p>24 confirm is that your decision to purchase from</p> <p>25 NECC was based upon your conversation with the</p>	<p style="text-align: right;">Page 101</p> <p>1 remember.</p> <p>2 Q. Okay. I think it is 1055 is the</p> <p>3 subpoena?</p> <p>4 MS. STEINER: No, 1055 is the first</p> <p>5 version of her CV. 1054 is the CV.</p> <p>6 MR. ROTH: 1053?</p> <p>7 MS. STEINER: 1053 is the response</p> <p>8 to the PSC's revised opinion.</p> <p>9 MR. ROTH: Can I just make sure I'm</p> <p>10 looking at the same. Right, okay. 1053 is</p> <p>11 the response to the subpoena.</p> <p>12 BY MR. ROTH:</p> <p>13 Q. And, if you look at Page 8, one of</p> <p>14 the things, Request Number 12 asks for, I'm</p> <p>15 looking at the wrong document.</p> <p>16 It asks for "Any marketing</p> <p>17 information, any and all documents and/or</p> <p>18 electronic stored information reflecting or</p> <p>19 containing marketing information from NECP (sic),</p> <p>20 NECP's agents, or any sales company or person,</p> <p>21 marketing or selling or attempting to sell</p> <p>22 products on behalf of NECP."</p> <p>23 In response, we were provided under,</p> <p>24 it is Tab 12; it is on Page 137 and 138.</p> <p>25 MS. STEINER: You said 138?</p>



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<p style="text-align: right;">Page 106</p> <p>1 between 2008 and the time of the recall?</p> <p>2 A. No, not for NECC or any other</p> <p>3 supplier of products that I was getting.</p> <p>4 Q. Were you aware between 2008 and the</p> <p>5 time of the recall as to whether or not NECC had</p> <p>6 microbiology reports or data?</p> <p>7 A. Not that I recall them sending</p> <p>8 anything like that to us.</p> <p>9 Q. Did you ever request NECC to provide</p> <p>10 you with microbiology reports between 2008 and</p> <p>11 2013?</p> <p>12 A. I don't personally remember</p> <p>13 requesting a report.</p> <p>14 If anything, unless my nurse reached</p> <p>15 out to get something like that after the recall,</p> <p>16 I'm not aware.</p> <p>17 I don't personally remember reaching</p> <p>18 out to NECC to try and get a report like that</p> <p>19 before or after the recall.</p> <p>20 Q. Okay. Well right now I want to</p> <p>21 focus on 2008 and before the recall.</p> <p>22 MS. STEINER: Your question had</p> <p>23 included up until 2013, previously.</p> <p>24 THE WITNESS: 2013.</p> <p>25 MR. ROTH: Thanks, I apologize for</p>	<p style="text-align: right;">Page 108</p> <p>1 different times.</p> <p>2 Q. Okay. And was the supplier somebody</p> <p>3 who was local in the Maryland area?</p> <p>4 A. I mean the supplier would be someone</p> <p>5 like Henry Schein or CuraScript, these are</p> <p>6 national companies. Do they have a local office?</p> <p>7 I don't know.</p> <p>8 Q. Okay. You have answered my</p> <p>9 question. Who were suppliers that you used</p> <p>10 between 2008 and up to the time of the recall for</p> <p>11 injectables?</p> <p>12 A. Those would be Henry Schein or</p> <p>13 CuraScript or McKesson for, there is someone I'm</p> <p>14 missing, I can't remember off the top of my head.</p> <p>15 Q. Okay. And I apologize if I asked</p> <p>16 you this question.</p> <p>17 Do you know whether or not between</p> <p>18 2008 and before the recall there were</p> <p>19 alternatives to MPA preservative-free for an</p> <p>20 injectable steroid?</p> <p>21 MS. STEINER: Objection, asked and</p> <p>22 answered. But you can answer it again.</p> <p>23 THE WITNESS: Yes, because like I</p> <p>24 said before, I don't remember looking around</p> <p>25 for other alternatives since I had already</p>
<p style="text-align: right;">Page 107</p> <p>1 that.</p> <p>2 BY MR. ROTH:</p> <p>3 Q. Between 2008 and until the time of</p> <p>4 the recall, did you ever request or did anyone</p> <p>5 from Box Hill ever request any microbiology data</p> <p>6 from NECC?</p> <p>7 A. No, like I said earlier, not from</p> <p>8 NECC or who we were getting the other injectables</p> <p>9 from, no.</p> <p>10 Q. Okay. And who else were you</p> <p>11 getting, were you getting injectable MPA from</p> <p>12 anyone other than NECC?</p> <p>13 A. No, not injectable. Any other</p> <p>14 injectables, dye, or local anesthetic, or the</p> <p>15 kits are sterile, or the skin prep, I don't</p> <p>16 remember requesting such reports for any of</p> <p>17 those.</p> <p>18 Q. Are the dyes or the, are they</p> <p>19 compounded?</p> <p>20 A. Not to the best of my knowledge.</p> <p>21 Q. Who did you get the dyes from?</p> <p>22 A. Over the years I used Isovue and</p> <p>23 Omnipaque. I'd have to go through the records to</p> <p>24 see who would have been the supplier, not the</p> <p>25 manufacturer, but the supplier for those at</p>	<p style="text-align: right;">Page 109</p> <p>1 used it before. No problems.</p> <p>2 And not just that, all of the other</p> <p>3 products, too, decided that I was going to</p> <p>4 continue using the same.</p> <p>5 BY MR. ROTH:</p> <p>6 Q. Is Depo-Medrol MPA?</p> <p>7 A. Depo-Medrol is methylprednisolone.</p> <p>8 Q. Is that a brand name, Depo-Medrol?</p> <p>9 A. That is a brand name.</p> <p>10 Q. And who manufacturers it?</p> <p>11 A. Currently Pfizer.</p> <p>12 Q. Did you know whether or not in,</p> <p>13 between 2008 until the time of the recall, Pfizer</p> <p>14 made Depo-Medrol in a preservative-free form?</p> <p>15 A. I don't know.</p> <p>16 Q. Pfizer is not a compounding</p> <p>17 pharmacy, correct?</p> <p>18 A. I understand they are a</p> <p>19 manufacturing company.</p> <p>20 Q. Okay. I think you can put that</p> <p>21 stuff away. I'm going to switch gears a little</p> <p>22 bit.</p> <p>23 I want to talk a little bit about</p> <p>24 how you purchased MPA from NECC.</p> <p>25 Were you aware between 2008 and the</p>



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